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CLERK OF COURT
U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

KELLEY FOODS OF ALABAMA, INC.

PLAINTIFF

VERSUS

CIVIL CAUSE NO. 1:04cv 1246-B

**MYERS NISSI & CO., INC., a corporation,
d/b/a VERTICALSOFT**

DEFENDANT

**ATTORNEY CONFERENCE REPORT OF THE PARTIES,
PURSUANT TO RULE 26(f), WITH
INCORPORATED PROPOSED DISCOVERY PLAN**

COME NOW, the plaintiffs and defendants in the above matter, through undersigned counsel, and file this report of their conference held pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, and state:

1.

Pursuant to Fed. R. Civ. P. 26(f), a telephonic meeting was held on February 11, 2005, whose participants were Mark Vaughan, Esq. for plaintiffs, and John Herke, Esq. for defendants.

2.

Pre-discovery disclosures. The parties will exchange by February 25, 2005 the information required by Fed. R. Civ. P. 26(a)(1).

3.

Discovery plan. The parties jointly propose to the Court the following discovery plan:

Discovery will be needed on the following subjects:

- a) The nature and extent of the negotiations leading up to and culminating in the formation of the contract at issue;
- b) The nature and effect on the parties of the various agreements among plaintiff, defendant, and Navision;
- c) The nature, extent and results of the efforts made by the respective parties to incorporate defendants' software into plaintiff's order fulfillment system;
- d) The nature, extent and causes of the alleged problems encountered by plaintiff in incorporating and utilizing defendants' software.

All discovery to be commenced in time to be completed by February 1, 2006.

Maximum of 25 interrogatories by each party to any other party, including all discrete subparts. Responses to interrogatories due 30 days after service.

Maximum of 15 requests for admission by each party to any other party. Responses due 30 days after service.

Maximum of five (5) depositions by plaintiff(s) and 7 depositions by defendant(s) for fact witnesses.

Each deposition limited to a maximum of six (6) hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from plaintiff(s) by September 23, 2005

from defendant(s) by October 21, 2005

Supplementations under Rule 26(e) to be due as information is discovered or every 30 days, whichever is longer, but in no event later than February 1, 2005.

4.

Other Items. The parties request a conference with the Court before entry of the scheduling order.

The parties request a pretrial conference in April 2006.

Plaintiff(s) should be allowed until (not applicable) to join additional parties and until March 25, 2005 to amend the pleadings.

Defendant(s) should be allowed until (not applicable) to join additional parties and until April 25, 2005 to amend the pleadings.

All potentially dispositive motions should be filed by March 1, 2006.

Settlement may be enhanced by use of the following alternative dispute resolution procedure: [mediation].

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due:

from plaintiff(s) by December 1, 2005

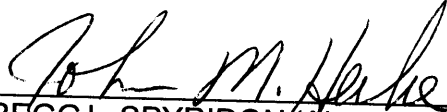
from defendant(s) by January 2, 2006

Parties should have 14 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for trial by May 1, 2006 and at this time trial is expected to take approximately two (2) days.

Respectfully submitted,

SPYRIDON, KOCH, PALERMO & DORNAN, L.L.C.



GREGG L. SPYRIDON (Ala. Bar. No. 6746-P77G)

JOHN M. HERKE (Ala. Bar No. HER045)

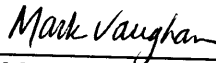
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